

MARKUP #1 ->

Board may make and enforce reasonable rules and regulations governing the use of the Lots and the Common Property which rules and regulations shall be consistent with the rights and duties established by this Declaration. The number of directors and the method of election of directors shall be set forth in this Declaration and in the Bylaws of the Association. Except to the extent otherwise expressly required or authorized by the Georgia Nonprofit Corporation code or this Declaration, the Association's Bylaws or Articles of Incorporation, the powers inherent in or expressly granted to the Association may be exercised by the Board, acting through the officers of the Association, without any further consent or action on the part of the Members.

(b) Officers. The number of officers and the method of election of officers shall be set forth in this Declaration and the Bylaws of the Association. Notwithstanding any other language or provision to the contrary in this Declaration, in the Articles of Incorporation, or in the Bylaws of the Association, officers of the Association shall be appointed by the Board until such time as Declarant no longer has the right to appoint members to the Board of Directors.

(c) The Development will be composed of Lots which may be developed in phases containing unequal numbers of Lots. Each such phase will be platted of record in the Office of the Clerk of the Superior Court in which the Property lies in accordance with Article X of this Declaration. The Declarant shall notify the Association when the final phase of the Development has been so platted or recorded. By acceptance of a deed conveying a Lot, each Owner acknowledges that, upon the filing by Declarant of the subdivision plats covering such phases, the total votes outstanding in the Association will automatically increase based upon the number of Lots in the phases added; provided, however, nothing contained herein shall obligate the Declarant to develop any proposed phase of the Development.

(d) Casting of Votes. The votes of the Members shall be cast under such rules and procedures as may be prescribed in this Declaration or in the Bylaws of the Association, as amended from time to time, or by law.

ISSUE #1

3.05 Suspension of Membership. The Board may suspend the voting rights of any Member and the right of enjoyment of the Common Property of any person who:

(a) Shall be subject to the Right of Abatement, as defined in Article VIII, Section 8.02 by reason of having failed to take reasonable steps to remedy a violation or breach of either the Restrictions or the Design Standards of the ACC (as herein defined) within thirty (30) days after having received notice of the same pursuant to the provisions of Article V, Section 5.11, Article VI, Section 6.02 and Article VIII, Section 8.02 hereof;

(b) Shall be delinquent in the payment of any assessments, fine or penalty levied by the Association pursuant to the provisions of this Declaration; or

(c) Shall be in violation of the rules and regulations of the Association relating to the use, operation and maintenance of the Common Property.

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. III (p. 13): Unlawful Voting Suspension or "Good Standing" Disqualification: Clause strips member voting rights without statutory authority/due process or conditions records inspection/meeting notice on assessment "Good Standing" in violation of GA law.

Statutory / Legal Reference: O.C.G.A. § 14-3-621 (GA Nonprofit Corp. Code - 15-Day Notice & Fair/Reasonable Procedure)

Statutory Comparison: Under O.C.G.A. § 14-3-621 (GA Nonprofit Corp. Code - 15-Day Notice & Fair/Reasonable Procedure), associations may not strip member voting rights (prohibited outright in TX, CA, and NJ elections, and subject to strict statutory delinquency floors and prior written notice/hearing in FL, GA, and other states), and may never condition statutory records inspection or meeting notices on assessment "Good Standing."

CURRENT WORDING IN DOCUMENT:
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(c)

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):
Amend Section III to preserve member voting rights, meeting notices, and records inspection rights in compliance with O.C.G.A. § 14-3-621 (GA Nonprofit Corp. Code - 15-Day Notice & Fair/Reasonable Procedure).